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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/663,508	09/16/2003	Prima S. Chambers	6302US	1869
30173	7590	07/13/2006	EXAMINER	
GENERAL MILLS, INC. P.O. BOX 1113 MINNEAPOLIS, MN 55440			LUONG, SHIAN TINH NHAN	
			ART UNIT	PAPER NUMBER
			3728	

DATE MAILED: 07/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/663,508

Applicant(s)

CHAMBERS ET AL.

Examiner

Shian T. Luong

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 May 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13, 15-48, 50-68 and 70-74 is/are pending in the application.
- 4a) Of the above claim(s) 0.67, 15, 27-30, 50, 54, 55, 67, 68, 70 and 71 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 72-74 is/are allowed.
- 6) ☒ Claim(s) 1-13, 16-18, 20-26, 31-48, 52-53 and 56-66 is/are rejected.
- 7) ☒ Claim(s) 19 and 51 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

Claim Rejections - 35 USC § 112

1. Claim 9 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 9, the base panel does not cover a portion of each of the bar code symbols on the package because the bar code symbol is located on the rear side of each package and not on the bottom side of the package as shown in Figures 5B and 6B and the disclosure on page 19 of the specification. Applicant argued in his response that one of ordinary skill in the art would understand that the bar code need not abutted directly with the base panel, but it could be in order to be covered. However, the claim is requiring the base panel to cover a portion of the bar code symbol when the base panel as disclosed on page 19 and in the drawing failed to provide the support. The purpose of 35 U.S.C. 112 is to ensure the claims meet the threshold requirement of clarity and precision. In this case, the base panel clearly cannot cover portions of the bar code symbol and hence clarity and precision are both lacking. As to applicant's response on how an artisan would interpret the specification, it would appear that the specification is inaccurate and confusing in depicting the obscuring of the bar code symbol. If the bar code is not partially abutting the base panel, then the base panel cannot cover any portion of the bar code. Appropriate correction is required.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 56-57 are finally rejected under 35 U.S.C. 102(b) as being anticipated by Whiteside (US 5,607,056). Whiteside discloses a carrier 10 with a base panel and first and second side panels 16,18 extending from opposite sides of the base panel 14. A multiplicity of packaged good articles in a major face-to-major-face fashion to define a product array defining a top, a bottom, a front, a back and opposing sides. The bottom of the product array is on the base panel. The first side panel extends along a portion of the front of the product array and the second side panel extends along a portion of the back of the product array. Securing adjacent ones of the multiplicity of packaged good articles to one another by placing a band 30 around the base panel. A handle is the top portion of the band and is extending from the front of the product array to the back of the product array across the top of the product. The handle is a separate part from the carrier.

Applicant argues that the handle 30 on Whiteside is tightly secured about the package and hence cannot serve as a handle. Contrary to applicant's claim, the strap 30 can serve as a handle when one of the articles is removed and more space is available.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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5. Claims 1-3,8-9,12-13,16-18,21,22,23,24,25,26,31 are finally rejected under 35 U.S.C. 103(a) as being unpatentable over Gloyer (Des. 297,916) in view of Blachon (US 4,827,114) and Gandini (US 6,041,572) and/or Danovaro et al. (US 5,570,787). Gloyer discloses at least three containers face one another in at least an array. The containers are stored within a carrier with a base panel and two side panels. A retainer secures the interior package to the outer packages. Gloyer does not disclose a handle, flexible packages and a retaining mean that has adhesive thereon as required in claim 1. However, Blachon teaches wrapping a plurality of flexible packages within a carrier as shown in Figures 6 and 13. Gandini teaches a package of two or more grouped items face one another. The package has an adhesive retaining means 1 surrounding the side of the packages and an elongated handle 3 with adhesive to secure over the top portion of the package. Danovaro et al. also teaches a device for bundling up containers. A handle 5 with adhesive is secured to a panel on each end. On a bottom portion of a mid portion of the handle, a label 6 made out of paper or other material is secured thereon. Therefore, it would have been obvious in view of Blachon and Gandini and/or Danovaro et al. to provide a handle to facilitate carrying of the packages and adhesive on the retaining means to secure the containers for transportation.

With respect to claim 2, the side panels are hingedly secured to the base panel.

With respect to claim 3, it would have been obvious to one having ordinary skill in the art at the time the invention was made to make the carrier out of paperboard, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416.

With respect to claim 8, Blachon teaches placing the base panel and the side panels in a manner to obscure the bar code on each package. It would have been obvious to cover the bar code symbol on each package to prevent unwanted scanning of each package.

With respect to claims 16 and 24, it would have been obvious to one having ordinary skill in the art at the time the invention was made to make the handle strip out of transparent material with top film layer and line film layer and the tape strip out of transparent material, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416. With respect to claim 18, the elongated strip can be made out of other materials such as plastic as also an obvious design choice.

With respect to claim 21, it would have been obvious to determine the appropriate width of the elongated strip through routine experiments to prevent excessive material cost.

With respect to claim 25, the tape strip is shown by Gloyer and modified by Gandini and Danavaro for the adhesive on the tape strip is tearable.

Applicant argues that one of ordinary skill in the art would not be motivated to combine the film envelope bag carrier with the multiple pack of Gloyer. However, Blachon is cited to show that instead of packaging a plurality of cylindrical containers in the device of Gloyer, it would have been obvious to pack other articles such as the flexible bags as well.

6. Claims 4-7,20 are finally rejected under 35 U.S.C. 103(a) as being unpatentable over the references applied above with respect to claim 1, further in view of Official Notice. Gloyer does not disclose the indicia on the individual package. However, providing indicia such as trade name and the flavor on desired locations such as top or bottom regions of the package is

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notoriously known in the art. It is also well known to display the indicia on the packages when secured within a carrier. Hence, it would have been obvious in view of Official Notice to provide indicia and display them in a carrier to attract the buyers.

With respect to claim 20, it would have been obvious to provide indicia on the top side of the elongated strip for additional advertising purposes as a feature well known in the art.

7. Claim 11 is finally rejected under 35 U.S.C. 103(a) as being unpatentable over the references applied above with respect to claim 1, further in view of Yu (US 5,279,841) and/or Gessford et al (US 6880313) substituting for Official Notice. Neither of the Gloyer reference the product flavor. However, Yu discloses packaging product of different flavors or multi-pack within a packaging. Gessford et al. also disclose packaging articles such as cereal of different types and shapes. The articles can be formed of cylindrical, flat, round or any other type, without limitation. Gessford et al. also disclosed that placing multiple articles in a cardboard carrier in a sleeve is known. Hence, in view of Yu and/or Gessford et al, it would have been obvious to provide different flavors in the carrier of Gloyer since there is no limitation as to the shape and size of the content.

8. Claims 8-10 are finally rejected under 35 U.S.C. 103(a) as being unpatentable over the references applied above with respect to claim 1, further in view of Kay (US 5,177,368). Gloyer discloses obscuring bar codes on each package. However, Kay discloses providing a carrier as shown in Figure 7 with the base panel obscuring the bar code in the same manner as applicant obscuring his bar codes. A bar code is also provided on the bottom of the base panel for a store clerk to scan the bar code for the entire package. Hence, it would have been obvious in view of

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Kay to obscure the bar code on the individual package and yet provide a bar code for all the contents within the carrier.

9. Claims 32-36,38-39,40,47-48,52,53,56-57,66 are finally rejected under 35 U.S.C. 103(a) as being unpatentable over Gloyer (Des. 297,916) in view of Gandini (US 6,041,572) and/or Danovaro et al. (US 5,570,787). Gloyer discloses at least three containers in contact and faces one another in at least an array. The containers are stored within a carrier with a base panel and two side panels. A retainer secures the interior package to the outer packages. Gloyer does not disclose a handle and a retaining mean that has adhesive thereon as required in claim 32.

However, Gandini teaches a package of two or more grouped items face one another. The package has an adhesive retaining means 1 surrounding the side of the packages and an elongated handle 3 with adhesive to secure over the top portion of the package. Danovaro et al. also teaches a device for bundling up containers. A handle 5 with adhesive is secured to a panel on each end. On a bottom portion of a mid portion of the handle, a label 6 made out of paper or other material is secured thereon. Therefore, it would have been obvious in view of Gandini and/or Danovaro et al. to provide a handle to facilitate carrying of the packages and adhesive on the retaining means to secure the containers for transportation.

With respect to claim 32, it would have been obvious to one having ordinary skill in the art at the time the invention was made to make the carrier out of paperboard, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416.

With respect to claims 40 and 53, it would have been obvious to one having ordinary skill in the art at the time the invention was made to make the handle strip out of transparent material and the tape strip out of transparent material, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416.

With respect to claims 38 and 39, it would have been obvious to determine the appropriate filled volume and the height of the package through routine experiments to prevent excessive material cost.

10. Claims 37,41-43,59,60-63 are finally rejected under 35 U.S.C. 103(a) as being unpatentable over the references applied above with respect to claim 32 or 56, further in view of Official Notice.

Gloyer does not disclose the limitation set forth in claims 41-43 and 60-63. However, providing indicia such as trade name and the flavor on desired locations such as top or bottom regions of the package is notoriously known in the art. It is also well known to display the indicia on the packages when secured within a carrier. Hence, it would have been obvious in view of Official Notice to provide indicia and display them in a carrier to attract the buyers.

With respect to claims 37 and 59, it is known in the art to organize the packages in any orientations such as having the major surface of the package facing downward on the base panel to secure the packages in a carrier.

11. Claims 44-46,64-65 are finally rejected under 35 U.S.C. 103(a) as being unpatentable over the references applied above with respect to claim 32 and 56, further in view of Kay (US 5,177,368). Gloyer does not disclose obscuring bar codes on each package. However, Kay

discloses providing a carrier as shown in Figure 7 with the base panel obscuring the bar code in the same manner as applicant obscuring his bar codes. A bar code is also provided on the bottom of the base panel for a store clerk to scan the bar code for the entire package. Hence, it would have been obvious in view of Kay to obscure the bar code on the individual package and yet provide a bar code for all the contents within the carrier.

12. Claim 58 is finally rejected under 35 U.S.C. 103(a) as being unpatentable over the references applied above with respect to claim 57, further in view of Blachon.

With respect to claim 58, Blachon teaches placing the base panel and the side panels in a manner to obscure the bar code on each package. The base panel and the side panels store a plurality of flexible bags. It would have been obvious to store other articles such as flexible bags within the carrier of Gloyer as taught by Blachon.

Allowable Subject Matter

13. Claims 19 and 51 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

14. Claims 72-74 are allowed.

Conclusion

15. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Telephone inquiries regarding the status of applications or other general questions, by persons entitled to the information, should be directed to the group clerical personnel and not to the examiners. In as much as the official records and applications are located in the clerical section of the examining groups, the clerical personnel can readily provide status information without contacting the examiners, M.P.E.P. 203.08.

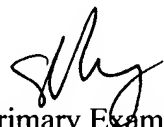
If in receiving this Office Action it is apparent to applicant that certain documents are missing, e.g., copies of references cited, form PTO-1449, form PTO-892, etc., requests for copies of such papers should be directed to Erica Miller at (571) 272-4370.

For applicant's convenience, the official FAX number is 571-273-8300. This practice may be used for filing papers not requiring a fee. It may also be used for filing papers which require a fee by applicants who authorize charges to a PTO deposit account. Please identify Examiner Luong of Art Unit 3728 at the top of your cover sheet of any correspondence submitted.

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Inquiries concerning the merits of the examination should be directed to Shian Luong whose telephone number is (571) 272-4557. The examiner can normally be reached on M-H from 7:00am to 4:00pm EST. The examiner's supervisor Mickey Yu can be reached at (571) 272-4562 for urgent matters.

STL
July 9, 2006


Primary Examiner
Shian Luong
Art Unit 3728